

FILED
CLERK OF DISTRICT COURT
DISTRICT OF NEW MEXICO

06 JUN 28 PM 1:59 #H

**IN THE UNITED STATES FEDERAL DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

Civil Action No. **CIV - 06 - 0571 MCA RLP**

(To be supplied by the Court)

**Demand for Jury Trial At Law &
Article 3 Judge Presiding**

**Petitioner: Michael TravaLino aka
Mark White Eagle
Sovereign Native American (Parent)**

**APPLICATION FOR A WRIT OF
HABEAS CORPUS**

In the matter of:

**Shishy Travalino, a minor
Shockie Travalino, a minor
Comet Travalino, a minor
Native American Indian,
Real Party in Interest**

**PURSUANT TO 28 U.S.C. § 2254
BY A PERSON IN STATE
CUSTODY**

VS.

Sheriff Department, et al.

**Patrick Jennings
As an Individual**

Children Youth and Families Department, et al.

**Candy Sarellano,
As an Individual**

**HENRY DIXON
As an Individual**

State of New Mexico. et al.

**Attorney General et al,
PATRICIA MADRID
As an Individual**

**CHAVES COUNTY, et al.
#1 St. Mary's Place, Roswell, NM 88203**

FLOYD D. "TERRY" HAAKE Jr.,

As an Individual

COMMISSIONERS

Michael A. Trujillo District 1
As an Individual

Harold Hobson District 2
As an Individual

Alice Eppers District 3
As an Individual

Richard C. Taylor District 4
As an Individual

Dorrie Faubus-McCarty District 5
As an Individual

Note: If the applicant is attacking a judgment which imposed a sentence to be served in the future, applicant must fill in the name of the state where the judgment of conviction was entered. If the applicant has a sentence to be served in the future under a federal judgment, which he/she wishes to attack, he/she should file a motion under 28 U.S.C. § 2255, in the federal court which entered the judgment.

CONVICTION UNDER ATTACK

1) Name and location of the court which entered the judgment of conviction under attack N/A

2) Date judgment of conviction was entered N/A

3) Case number N/A

4) Type and length of sentence imposed Restrained of liberty

5) Are you presently serving a sentence imposed for a conviction other than the conviction under attack in this motion? Yes No xx

6) Nature of the offense involved (all counts) N/A

7) What was your plea? (check one) N/A

Not Guilty Guilty Nolo Contendere

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

N/A

8) If you entered a plea of guilty pursuant to a plea bargain, state the terms and conditions of the agreement

N/A

9) Kind of trial (check one) Jury Judge only

10) Did you testify at trial? Yes No

DIRECT APPEAL

11) Did you appeal from the judgment of conviction? Yes ^{N/A} ___ No ___

12) If you did appeal, give the name and location of the court where the appeal was filed, the result, the case number and date of the court's decision (or attach a copy of the court's opinion or order):
N/A

13) If you did not appeal, explain briefly why you did not:

N/A

a) Did you seek permission to file a late appeal? Yes ___ No ___

POST-CONVICTION PROCEEDINGS

14) Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal? Yes ___ No ^{N/A} ___

15) If your answer to 14 was "Yes," give the following information:

a) FIRST petition, application or motion.

1. Name of court _____

2. Nature of proceeding _____

3. Claims raised _____

4. Did you receive an evidentiary hearing on your petition, application or motion? Yes ___ No ___

5. Result _____

6. Date of result _____

7. Did you appeal the result to the highest state court having jurisdiction?
Yes ___ No ___ If you did appeal, give the name of the court where the
appeal was filed, the result, the case number, citation and date of the court's
decision (or attach a copy of the court's opinion or order)

N/A

8. If you did not appeal, briefly explain why you did not

b) As to any SECOND petition, application or motion, give the following
information:

1. Name of court N/A

2. Nature of proceeding

3. Claims raised

4. Did you receive an evidentiary hearing on your petition, application or
motion? Yes ___ No ___

5. Result

6. Date of result

7. Did you appeal the result to the highest state court having jurisdiction?
Yes ___ No ___ If you did appeal, give the name of the court where the
appeal was filed, the result, the case number, citation and date of the court's
decision (or attach a copy of the court's opinion or order)

N/A

8. If you did not appeal, briefly explain why you did not N/A

c) As to any THIRD petition, application or motion, give the following information:

1. Name of court N/A

2. Nature of proceeding _____

3. Claims raised _____

4. Did you receive an evidentiary hearing on your petition, application or motion? Yes ___ No ___

5. Result _____

6. Date of result _____

7. Did you appeal the result to the highest state court having jurisdiction? Yes ___ No ___ If you did appeal, give the name of the court where the appeal was filed, the result, the case number, citation and date of the court's decision (or attach a copy of the court's opinion or order) _____

8. If you did not appeal, briefly explain why you did not _____

CLAIMS

16) State concisely every claim that you are being held unlawfully. Summarize briefly the facts supporting each claim. If necessary, you may attach extra pages stating additional claims and supporting facts. You should raise in this petition all claims for relief which relate to the conviction under attack.

In order to proceed in federal court, you ordinarily must exhaust the remedies available to you in the state courts as to each claim on which you request action by the federal court.

Claim One: Refer to addendum. of Wit of Habeas Corpus.

(1) Supporting Facts: (Without citing legal authorities or argument state briefly the facts in of this claim)

Refer to addendum of Writ of Habeas Corpus.

(2) Statement of exhaustion of state remedies as to claim one:

Direct Appeal N/A

(a) If you appealed from the judgment of conviction, did you raise this issue?
Yes ___ No ___

(b) If you did not raise this issue in your direct appeal, explain briefly
why you did not _____

Post-Conviction Proceedings N/A

(c) Did you raise this issue by means of a post-conviction motion or petition
for habeas corpus in a state trial court? Yes ___ No ___

(d) If your answer to (c) is "Yes," state the type of motion or petition, the
name and location of the court where the motion or petition was filed, the case
number (if known), the result and the date of the court's decision

N/A _____

(e) Did you receive an evidentiary hearing on your motion or petition? Yes ___
No ___

(f) Did you appeal from the denial of your motion or petition?

Yes ___ No ___

(g) If your answer to (f) is "Yes," state whether this issue was raised in the appeal, Yes ___ No ___. and state the name and location of the court where the appeal was filed, the case number and the date of the court's decision (or attach a copy of the court's opinion or order)

N/A

(h) If your answer to question (e), (f) or (g) is "No," briefly explain _____

Other Remedies

(i) Describe all other procedures (such as habeas corpus in the state supreme court, administrative remedies, etc.) you have used to exhaust your state remedies as to the issue

N/A

Claim Two: Refer to addendum of Writ of Habeas Corpus

(1) Supporting Facts: (Without citing legal authorities or argument state briefly the facts in of this claim)

(2) Statement of exhaustion of state remedies as to claim two:

Direct Appeal N/A

(a) If you appealed from the judgment of conviction, did you raise this issue? Yes ___ No ___

(b) If you did not raise this issue in your direct appeal, explain briefly why you did not _____

Post-Conviction Proceedings

(c) Did you raise this issue by means of a post-conviction motion or petition for habeas corpus in a state trial court? Yes ___ No ___

(d) If your answer to (c) is "Yes," state the type of motion or petition, the name and location of the court where the motion or petition was filed, the case number (if known), the result and the date of the court's decision

N/A

(e) Did you receive an evidentiary hearing on your motion or petition? Yes ___ No ___

(f) Did you appeal from the denial of your motion or petition? Yes ___ No ___

(g) If your answer to (f) is "Yes," state whether this issue was raised in the appeal, Yes ___ No ___, and state the name and location of the court where the appeal was filed, the case number and the date of the court's decision (or attach a copy of the court's opinion or order)
N/A

(h) If your answer to question (e), (f) or (g) is "No," briefly explain _____
N/A

Other Remedies

(i) Describe all other procedures (such as habeas corpus in the state supreme court, administrative remedies, etc.) you have used to exhaust your state remedies as to the issue

N/A

Claim Three: Refer to addendum of Writ of Habeas Corpus, attached
and incorporated hereun.

(1) Supporting Facts: (Without citing legal authorities or argument state briefly the facts in of this claim)

(2) Statement of exhaustion of state remedies as to claim three:

Direct Appeal

(a) If you appealed from the judgment of conviction, did you raise this issue?

Yes ___ No ___

(b) If you did not raise this issue in your direct appeal, explain briefly why you did not N/A

Post-Conviction Proceedings

(c) Did you raise this issue by means of a post-conviction motion or petition for habeas corpus in a state trial court? Yes ___ No ___

(d) If your answer to (c) is "Yes," state the type of motion or petition, the name and location of the court where the motion or petition was filed, the case number (if known), the result and the date of the court's decision

N/A

(e) Did you receive an evidentiary hearing on your motion or petition?

Yes ___ No ___

(f) Did you appeal from the denial of your motion or petition?

Yes ___ No ___

(g) If your answer to (f) is "Yes," state whether this issue was raised in the appeal, Yes ___ No ___, and state the name and location of the court where the appeal was filed, the case number and the date of the court's decision (or attach a copy of the court's opinion or order)

N/A

(h) If your answer to question (e), (f) or (g) is "No," briefly explain _____

N/A

Other Remedies

(i) Describe all other procedures (such as habeas corpus in the state supreme court, administrative remedies, etc.) you have used to exhaust your state remedies as to the issue

N/A

17) Have all claims for relief raised in this petition been presented to the highest state court having jurisdiction? Yes ___ No ___

N/A

22) Do you have any petition, application, motion or appeal now pending in any court, either state or federal, regarding the conviction under attack? Yes ___ No xx If "Yes," state the name of the court, case file number (if known), and the nature of the proceeding

N/A

LEGAL REPRESENTATION

23) Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing N/A No Proper Jurisdiction exists.

at the lower court level due to the unlawful seizure

Pursuant to Title 28 §§ 1356. And th a violation of the Fourth

(b) At arraignment and plea N/A Amendment to
The National Constitution

(c) At trial N/A

(d) At sentencing N/A

(e) On appeal N/A

(f) In any post-conviction proceeding N/A

(g) On appeal from any adverse ruling in a post-conviction proceeding N/A

OTHER CONVICTIONS

24) Were you sentenced on more than one count of an indictment or on more than one indictment, in the same court and at the same time? Yes ___ No xx Not Applicable.

ADDENDUM TO WRIT OF HABEAS CORPUS

On or about Sunday June 18, 2006 approximately 8:45 Pm Chaves County Sheriff's forcibly entered the premises at the residence of the said petitioner and his children at 607 E. Gallina Road without a warrant and Corpus Delecti .

Title 28 USCS § Sec. 1356. Seizures not within admiralty and maritime jurisdiction

Revised: 06-01-2003

one case cites this document

The district courts shall have original jurisdiction, exclusive of the courts of the States, of any seizure under any law of the United States on land or upon waters not within admiralty and maritime jurisdiction, except matters within the jurisdiction of the Court of International Trade under section 1582 of this title.

Chaves County Sheriff further petitioners consent, unlawfully searched seized property and minor children, incorporeal and corporeal. Violative to 4th, 5th and 14th Amendments of the National Constitution.

Petitioner and Father demanded council prior to any interrogation to represent each and every child. Said Chaves County Sheriff Department continued to pursue interrogation of said children without council present. Violative to the 6th Amendment and the equal protection clause contained in the 14th Amendment .

Petitioner was forcefully restrained, by handcuffs, while the Chaves County Sheriff Department terrorized the children, interrogating them, and extracting them from their beds. They then called in the Children Youth and Families Services, hereby known as CYFD, to removed and place them with Non Indian foster home care. Further terrorizing them by yelling at them to give them information without legal council. This petitioner was contacted and informed that his children were being forcibly taken to a doctor on Tuesday June 20, 2006 which is violative of our religion. Pursuant to the 1st Amendment, Contrary to our Native American Culture and religious beliefs. At Dr's office the said children were violated and forcibly made to undress in front of opposite sex adults without the consent of this petitioner. While the children were at the Dr's. office each and every one of the children were interrogated AGAIN without legal council as petitioner had demanded at the beginning of this ordeal.

The said children were placed on Sunday night June 18th as a complete unit, together. Since the first placement they have been taken one by one and placed in different non Indian homes, leaving each child with severe emotion trauma, worried each about the other, unable to communicate with their siblings. Contrary to Public Policy, in keeping the unity of a family.

The Petitioner wants the court to know, that even by June 23, 2006, he was unable to ascertain any charges against him, there wasn't a warrant, to justify the entry into his home, and the unlawful search and seizure of his children and personal property.

This Petitioner as June 22, 2006 spoke with Candy Sarrellano, Social Worker for the said children, at which time requested a copy of writ of commitment. At this said date and time June 23, 2006, this petitioner has not received any writ of commitment.

This is Violative of the Writ Habeas Corpus and the Declaration of the Human Rights Act.

THEREFORE, This Petitioner demands the release for his minor children Shishy TravaLino, Shockie TravaLino and Comet TravaLino and claims damages in the amount of two million dollars for each said child, for a total sum of six million dollars.

REPECTFULLY SUBMITTED,


Michael TravaLino aka Mark White Eagle

ORDER GRANTED WRIT OF HABEAS COPUS

Upon reading and filing the petition of Michael TravaLino aka Mark White Eagle Sovereign Native American Indian, in behalf of his minor children. It appears that said minor children are unlawfully imprisoned and restrained of their liberty without a lawful warrant, Corpus Delecti nor a warrant of commitment. In the possession of CYFD

IT IS ORDERED that minor children, Shishy TravaLino, Shockie TravaLino and Comet TravaLino are release back to the Father Michael TravaLino aka Mark White Eagle Sovereign Native American Indian.

IT IS FURTHER ORDERED Petitioner receives the damages for his minor children Shishy TravaLino, Shockie TravaLino and Comet TravaLino in the amount of two million dollars for each said child, for a total sum of six million dollars.



OFFICIAL SEAL
DENISE WEAVER
NOTARY PUBLIC
STATE OF NEW MEXICO

My Commission Expires: 06/12/2007


Michael TravaLino aka Mark White Eagle.

**CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC
STATE OF NEW MEXICO)**

) ss.

COUNTY OF CHAVES)

On June 23, 2006, before me, the undersigned, a Notary Public, in and for said county and state, duly commissioned and sworn, personally appeared

MICHAEL M TRAVALINO, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that s/he executed the same in her/his authorized capacity, and that by her/his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS MY HAND AND OFFICIAL SEAL

[This is a unilateral contract and anyone that trespasses upon the civil rights of the maker commits tort interference and loses immunity and may be civilly prosecuted by the contracting parties of said contract pursuant to Title 42 United States Code Section § 1981.]

Proof of Service by Mail

I Reverend Cacrlion Arthur, declare and State:

I am over the age of eighteen years. I reside in the City of Roswell, County of Chaves, State of New Mexico, and am not a party to the within action. My business address is: 200 W. First Street, Roswell, NM 88203 Room 861

On June 23, 2006 I served an application for a Writ of Habeas Corpus and motion for by petitioner for appointment of Guardian Ad Litem for said minor's and order FRCP, Rule 17 (c); in said action, by placing a true copy thereof enclosed in a sealed envelope, with postage thereon fully prepaid, and the United States Mail in Roswell New Mexico, Addressed as follows

DISTRICT ATTORNEY CHAVES CO.

**5th JUDICIAL DISTRICT
FLOYD D. "TERRY" HAAKE Jr.,
District Attorney
CHAVES COUNTY
110 E 4TH STREET
ROSWELL NM, 88201
TELEPHONE: 505-622-4121
FAX: 505- 624-0802**

**ATTORNEY FOR C.Y.F.D
HENRY DIXON
#4 GRAND AVE PLAZA
ROSWELL, NEW MEXICO 88203**

**CHAVES COUNTY SHERIFF
PATRICK JENNINGS
#1 St. Mary's Place
P.O. Box 1817
Phone: (505) 624-6600
Roswell, NM 88203
Fax: (505) 624-6631**

**Michael A. Trujillo
District 1
#1 St. Mary's Place, Roswell, NM 88203**

**Richard C. Taylor
District 4
#1 St. Mary's Place, Roswell, NM 88203**

**State of New Mexico.
490 Old Santa Fe Trail
Room 400
Santa Fe, NM 87501**

**Children Youth and Families Department
#4 GRAND AVE PLAZA
ROSWELL, NEW MEXICO 88203**

**ATTORNEY GENERAL OF NEW MEXICO
PATRICIA MADRID
408 GALISTEO STREET
VILLAGRA BUILDING
SANTA FE, NEW MEXICO 87501
PHONE::(505) 827-6000
FAX: (505) 827-5826
Santa Fe Mailing Address
P.O. Drawer 1508
Santa Fe, NM 87504-1508**

**Candy Sarellano
#4 GRAND AVE PLAZA
ROSWELL, NEW MEXICO 88203**

**CHAVES COUNTY et all
#1 St. Mary's Place, Roswell, NM 88203
P.O. Box 1817, Roswell, N.M. 88202-1817**

**Chaves County Sheriff's Department
#1 St. Mary's Place
P.O. Box 1817**

**Harold Hobson
District 2
P.O. Box 1817, Roswell, N.M. 88202-1817**

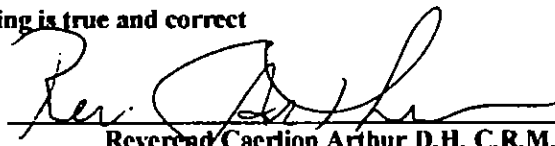
**Alice Eppers
District 3
P.O. Box 1817, Roswell, N.M. 88202-1817**

**Dorrie Faubus-McCarty
District 5
#1 St. Mary's Place, Roswell, NM 88203**

JUN 23 2006

Executed on Banking Center 2006, Roswell, New Mexico,

I declare under penalty of perjury that the foregoing is true and correct


Reverend Caerlion Arthur D.H. C.R.M.
[DECLARANT]